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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,482	12/10/2001	Craig C. Andrews	LYNN/0130.D	7645

7590 04/29/2004

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EXAMINER

VALENTINE, DONALD R

ART UNIT	PAPER NUMBER
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1742

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/016,482	Applicant(s) ANDREWS ET AL.	
	Examiner Donald R. Valentine	Art Unit 1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-10, 12-43, 45-81 and 84-213 is/are pending in the application.
- 4a) Of the above claim(s) 55-67, 81, 84-86 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 6-10, 12-43, 45, 68-80 and 87-213 is/are allowed.
- 6) ☒ Claim(s) 46-49 and 52-54 is/are rejected.
- 7) ☒ Claim(s) 50 and 51 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on March 3, 2004 has been entered.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claim 46-49 and 52 are rejected under 35 U.S.C. 102 b) as being anticipated by Bentley.

Bentley shows "automatically separating one or more of the first and second electrodes from the electrolyte upon one or more standby conditions". See col. 2, lines 20-46. The operation inherently includes an expiration of a time period. See col.3, lines 1-25. There is a time delay inherently occurring. The "production conditions" (claim 48) are considered to be equivalent to the recovery of silver in the system of Bentley. The separation of the cathode from the solution to provide a dry cathode is being considered positioning the one or more electrodes into contact with the electrolyte.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 48 and 52-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bentley.

Bentley shows "automatically separating one or more of the first and second electrodes from the electrolyte upon one or more standby conditions". See col. 2, lines 20-46. The operation inherently includes an expiration of a term period. See col.3, lines 1-25. There is a time delay inherently occurring. The "production conditions" (claim 48) are considered to be equivalent to the recovery of silver in the system of Bentley. The separation of the cathode from the solution to provide a dry cathode is being considered positioning the one or more electrodes into contact with the electrolyte.

The reference does not show a "water pump". What is shown is a "filling pump".
(See col. 3, lines 1-3).

The skilled artisan would find it obvious to utilize the pump of Bentley as a water pump as a matter of choice depending upon the requirements of a particular system in question. No unexpected results would be apparent therefrom.

Election/Restrictions

7. Applicant's election without traverse of claims 1-54, 68-80, 82-83, 87-91 in Paper No. 08/14/03 is acknowledged.

Allowable Subject Matter

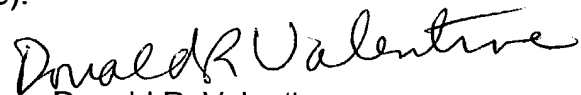
8. Claims 1-4, 6-10, 12-43, 68-80, 87-213 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald R. Valentine whose telephone number is 571-272-1250. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-272-1244. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1742

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Donald R. Valentine
Primary Examiner
Art Unit 1742

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April 27, 2004